

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

NORTHWEST ADMINISTRATORS, INC.,

Plaintiff,

v.

AMERICOLD LOGISTICS, LLC, a
Delaware limited liability company,

Defendant.

NO.

COMPLAINT TO COMPEL AUDIT

I.

Plaintiff, Northwest Administrators, Inc., is an organization incorporated under the laws of the State of Washington, with its principal place of business in King County, and is the authorized administrative agency for and the assignee of the Western Conference of Teamsters Pension Trust Fund (hereinafter "Trust").

II.

The Western Conference of Teamsters Pension Trust Fund is an unincorporated association operating as a Trust Fund pursuant to Section 302 of the Labor Management Relations Act of 1947, as amended, to provide retirement benefits to eligible participants.

COMPLAINT TO COMPEL AUDIT - 1

III.

This Court has jurisdiction over the subject matter of this action under Section 502(e)(1) and (f) of the Employee Retirement Income Security Act of 1974 ("ERISA"), 29 U.S.C. §1132(e)(1) and (f) and under §301(a) of the Taft-Hartley Act, 29 U.S.C. §185(a).

IV.

Venue is proper in this District under Section 502(e)(2) of ERISA, 29 U.S.C. §1132(e)(2), because the Plaintiff Trust Fund is administered in this District.

V.

Defendant is a Delaware limited liability company.

VI.

Defendant is bound to collective bargaining agreements with Local 305 of the International Brotherhood of Teamsters (hereinafter "Local"), under which the Defendant is required to promptly and fully report for and pay monthly contributions to the Trust at specific rates for each hour of compensation (including vacations, holidays, overtime and sick leave) said Defendant pays to its employees who are members of the bargaining unit represented by the Local (such bargaining unit members are any of the Defendant's part time or full time employees who perform any work task covered by the Defendant's labor contract with the Local, whether or not those employees ever actually join the Local).

VII.

Defendant accepted the Trust's Agreement & Declaration Agreement ("Trust Agreement") which provides in part:

Each Employer shall promptly furnish to the Trustees or their authorized representatives on demand any and all records of his past or present Employees concerning the classification of such Employees, their names, Social Security numbers, amount of wages paid and hours worked or paid for, and any other payroll records and information the Trustees may require in connection with the administration of the Trust Fund, and for no other purpose. The Trustees or their authorized representatives may examine any books and records of each employer, which the Employer is required to furnish to the Trustees on demand whenever such examination is deemed necessary or desirable by the Trustees in the proper administration of the Trust. If it becomes necessary for the trustees to retain legal counsel to compel an Employer to furnish to, or permit the examination of books, or records or information by, the Trustees or their representatives, the Employer shall reimburse the Trust fund for all reasonable attorney's fees and court costs incurred by the Trust Fund in connection therewith, whether or not legal proceedings were instituted and whether or not such examination disclosed that the Employer has failed to make appropriate or timely Employer Contributions to the Trust Fund.

VIII.

The Trustees of the Western Conference of Teamsters Pension Trust deem it both necessary and advisable to the proper administration of the Trust that their authorized representatives examine the Defendant's books and records for the inclusive period of September 1, 2016 through the Present Date to determine if the

1 Defendant previously reported for and paid to the Trust all of the amounts due for
 2 the Defendant's employment of members of the bargaining unit represented by the
 3 Trust for said period.

4 IX.

5 Despite notification to the Defendant of the Trustees' desire to conduct an
 6 audit for the period September 1, 2016 through the Present Date, and demands
 7 made upon the Defendant on the Trust's behalf for access to Defendant's records
 8 for an examination of them for that period, to date the Defendant has failed and
 9 refused to make its records available for the thorough examination the Trustees
 10 deem necessary and advisable to the proper administration of the Trust.

11 WHEREFORE, plaintiff, on the Trust's behalf, prays the court as follows:

12 1. That the Court enter an Order Compelling Audit under which
 13 Defendant shall be directed by the Court, within a specified time, to make available
 14 to the authorized representatives of the Trustees of the Trust for the period
 15 September 1, 2016 through the Present Date:
 16

17 *Roster – Employee information not listed on roster provided

18 *Payroll – Employee payroll record not included on “earnings hours” or “time
 19 punch” spreadsheets

- 20
- 21 1. Barajas, G – roster and payroll
 - 22 2. Barraza, E - roster
 - 23 3. Bracamontes, M – roster and payroll
 - 24 4. Brickley, RJ – roster and payroll
 - 25 5. Crabtree, PR– roster
 - 26 6. Davidof, Yusef – roster and payroll

7. Eberenz, Samuel R – roster and payroll
8. Espinoza, Manuel – roster and payroll
9. Gay, Alexander – roster
10. Henry, MJ – roster and payroll
11. Hernandez, Rafael – roster and payroll
12. Highsmith, Shawn T – roster and payroll
13. Holiday, Tim – roster
14. Imholt, PW – roster
15. Larson, BJ – roster
16. Lopez, Joshua Michael – roster and payroll
17. Mata, F – roster
18. Medina-Ayala, Martin – roster and payroll
19. Noel, Julia D – roster and payroll
20. Rickard, N – roster
21. Pol, C – roster and payroll
22. Ramirez, Jorge – roster and payroll
23. Rodriguez, JD – roster and payroll
24. Sanchez, Robert David – roster and payroll
25. Sanchez, Anthony F – roster and payroll
26. Segars, DR – roster and payroll
27. Serrano, C – roster and payroll
28. Stravens, JE – roster and payroll
29. Trento, PL – roster and payroll
30. Wilkinson, PR – roster and payroll

Reporting methods and Temporary Agency Personnel Questions

1. When was the transition from a fiscal reporting method to a calendar reporting method? In the previous audit, your firm reported on a fiscal month basis and is currently reporting on a calendar month basis. Please advise the date/month the transition occurred.

2. For January 2020, the reported transmittal shows a list of participants who are usually a part of a different union and location. Some participants, who are highlighted, were reported to two different accounts in the same month. Please refer to the attached image. Is the list of participants reported in error on January 2020 or was this due to extraordinary circumstances for business need?

*All participants highlighted in yellow (attached as Exhibit "A") were reported once on January 2020. Participants highlighted in blue (attached), excluding Knight, Steven F, were reported to two different accounts under the same month with near full straight time hours.

TAP

Questions on temporary agency personnel staffing positions and information provided.

- The Excel spreadsheet with TAP invoices did not include job positions. If there aren't any specific job positions on the invoices, what were the tasks performed? Please add a column with that information.
- Please provide TAP invoice originals. Your firm only provided an Excel version of the TAP invoices.

2. Afford to the authorized representatives of the Trustees of the Trusts both ample time and opportunity to examine all such materials of Defendant at such time and at such place as shall be convenient to the Trustees' authorized representatives.

3. For judgment against the Defendant for:

- A. All of the Plaintiff's attorney's fees incurred in gaining auditor access to Defendant's records;
- B. All of the Plaintiff's costs incurred in gaining auditor access to defendant's records, and
- C. For such other and further relief as the Court may deem just and equitable.

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COMPLAINT TO COMPEL AUDIT - 6

DATED this 10th day of December, 2021.

REID, McCARTHY, BALLEW & LEAHY,
L.L.P.

By: 

Russell J. Reid, WSBA #2560
100 West Harrison Street, N. Tower, #300
Seattle WA 98119
Telephone: (206) 285-0464
Fax: (206) 285-8925
Email: rjr@rmbllaw.com
Attorney for Plaintiff